

1 Mary T. Wynne, WSBA #12441
2 3561 S. Tumbleweed Court
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5 **IN THE COURT OF APPEALS FOR THE 9TH CIRCUIT**

6
7 **SANDRA D. EVANS,**)
8)
9 **Defendant/Appellant,**) **Appeal Case No:** _____
10)
11 **v.**)
12) **Case No.: CV-07-0314-EFS**
13 **WAPATO HERITAGE, LLC, a**)
14 **Washington limited liability**)
15 **company; and Kenneth Evans, John**) **NOTICE OF APPEAL**
16 **Wayne Jones, and Jamie Jones,**)
17 **individual residents of Washington**)
18 **State,**)
19)
20 **Plaintiffs/Appellees.**)
21)
22)
23)
24)
25)

18 Notice is hereby given that SANDRA D. EVANS, Defendant in the above
19 named case, hereby appeals to the United States Court of Appeals for the Ninth
20 Circuit, from that portion of the final Order Ruling On Pending Motions and
21 Directing Entry of Judgment of the United States District Court for the Eastern
22 District of Washington, entered on February 9, 2010, and from that portion of the
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1 Judgment in a Civil Case which, pursuant to the aforesaid final Order Ruling on
2 Pending Motions and Directing Entry of Judgment, was entered by the Clerk of the
3 District Court on February 9, 2010, that:

5 (1) all rulings by the trial court were done by summary judgment pleadings,
6 defendant was denied her right to a trial;

7 (2) defendant was denied her right to call witnesses in support of her
8 defenses;

10 (3) defendant was denied her right to call expert witnesses in support of her
11 defenses;

12 (4) defendant was ordered to pay a compounded interest rate in violation of
13 federal rules;

15 (5) defendant's attorney was denied repeated motions to withdraw from the
16 case;

17 (6) defendant's attorney failed to join co-defendant's motions for summary
18 judgment and when co-defendant was dismissed, lost the opportunity to argue said
19 defenses;

21 (7) Plaintiffs failed to join an indispensable party, the United States
22 government;

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1 (8) the trial court failed to hold a hearing on dispositive summary judgment
2 motions;

3 (9) defendant was denied attorney fees for those actions which she
4 successfully defended;

5 (10) the trial court allowed Plaintiffs to serve defendant via email after a
6 minimal showing that plaintiffs could not serve defendant at her residence in
7 England, in spite of being supplied all contact information for defendant;

8 (11) Defendant retained an attorney who was ineffective in his
9 representation, failed to meet the deadline for responding to a summary judgment
10 motion, ultimately resulting in a judgment being entered against defendant;

11 (12) Defendant's attorney failed to plead a jurisdictional argument that could
12 have terminated the case in its early stages, saving defendant hundreds of
13 thousands of dollars in legal fees and costs. By the time the jurisdictional
14 argument was presented to the Court, the Court found that there was too much
15 vested in the case to discontinue it at that point. Defendant's ineffective council is
16 now suing her for attorney fees and costs.

17 (13) Defendant declares that, under the terms of the Settlement Agreement
18 entered into between the Plaintiffs and Defendant Evans, as interpreted by Judge
19

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1 Stancampiano of the Office of Hearings and Appeals of the Bureau of Indian
 2 Affairs, Defendant Evans is required to loan, for a five-year period beginning
 3 January 1, 2006, 35% of the MA-10 monies deposited into her Individual Indian
 4 Money (IIM) account to Plaintiff Wapato Heritage, LLC;

5 (12) the trial court ruled that 25 CFR §410 does not apply to the attachment
 6 and assignment of Defendant's Individual Indian Money account;

7 (13) the trial court entered a money judgment in favor of Plaintiff Wapato
 8 Heritage, LLC and against Defendant Evans in the principal amount of
 9 \$1,355,099.62, together with federal prejudgment interest in the amount of 7.4%,
 10 compounded annually, and with federal post-judgment interest in accordance with
 11 28 U.S.C. § 1961;

12 (14) the trial court granted Plaintiffs' Motion for Entry of Judgment for
 13 General Damages Against Defendant Sandra Evans;

14 (15) the trial court ordered that, for MA-10 monies received by Defendant
 15 Evans during 2010, Defendant Evans shall ensure that the United States
 16 Department of the Interior's Office of Special Trust has the necessary and
 17 complete documents, including OST 01-004/6, W-9, and a Power of Attorney (if
 18 necessary), to allow the Office of Special Trust to forward 35% of the MA-10
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1 monies deposited into Defendant Evans' IIM account to the Registry of the District
2 Court;

3 (16) the trial court directed that the funds currently deposited in the Registry
4 of the District Court relating to the above named case, representing 35% of the
5 MA-10 monies deposited into Defendant Evans' IIM account for the third quarter
6 of 2009 (\$85,979.17) and 35% of the MA-10 monies deposited into Defendant
7 Evans' IIM account for the fourth quarter of 2009 (\$77,619.51), shall be promptly
8 paid to Plaintiff Wapato Heritage, LLC;

9 (17) the trial court directed that any future funds received from the Office of
10 Special Trust relating to the above named case shall be promptly forwarded to
11 Plaintiff Wapato Heritage, LLC by the Clerk of the District Court;

12 (18) the trial court ordered that the District Court shall retain jurisdiction to
13 ensure that Defendant Evans complies with her loan obligation for the full five-
14 year period;

15 (19) the trial court has ordered Defendant Evans to "voluntarily" turnover
16 money in her Individual Indian Money account, failure to so direct said turnover
17 will result in a finding of contempt of court;

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1 (20) the trial court denied Defendant Evans' First Amended Motion for
2 Reconsideration.

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5 Respectfully submitted this 10th Day of March, 2010.

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7 /s/ Mary T. Wynne
8 Mary T. Wynne, WSBA #12441
9 Attorney for Defendant Sandra Evans

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Representation Statement pursuant to FRAP 3-2(b):

Defendant/Appellant:

Sandra D. Evans

Attorneys for Defendant/Appellant:

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Plaintiffs/Appellees:

Wapato Heritage, LLC, a Washington Limited Liability Company
Kenneth Evans
John Wayne Jones
Jamie Jones, individual residents of Washington State

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1 Attorneys for Plaintiffs/Appellees:

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1 CERTIFICATE OF SERVICE
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I hereby certify that on the date set forth below, I caused the foregoing
documents, to be electronically filed with the Clerk of the above entitled Court
using the CM/ECF system, and have sent true and correct copies of said documents
to the following:

8 Michael A Arch mikea@archlawfirm.com
9
10

R Bruce Johnston bruce@rbrucejohnston.com

11 Respectfully submitted this 10th Day of March, 2010.
12
13

/s/ Mary T. Wynne
14 Mary T. Wynne, WSBA #12441
15 Attorney for Defendant Sandra Evans
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